



PUBLIC MEETING

November 10, 2016
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, November 10, 2016, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Mike Murray called the meeting to order at 9 a.m.

Commissioner Susan Good Geise and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Eric Bryson, K. Paul Stahl, Eric Griffin, Maria Penna, Dave Schmitz, Susan Suter, Keith Hatch, Jennifer McBroom, Kevin Hamilton, George Thebarger, Marni Bentley, Paul Spengler, Matt Heimel, Tony Prothero, Vickie Edwards, Andrea Silverman, Connie Cole, Matt Bell, Christian Dietrich, Glenn Marx, Laura Nicolai, Sally Shortridge, Al Knauber, and Misty Edwards, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Announcement

- a. Employee Recognition. (Eric Griffin)

Eric Griffin, Director of Public Works, recognized Maria Penna for her 11 years of service to Lewis and Clark County. Ms. Penna started with the County Commissioners Office and moved on to Public Works and will be retiring today.

Consent Action Items

- a. Amended Bylaws of the Lewis and Clark County Fair Board. (Keith Hatch)

Eric Bryson reported on the consent action item 3 a and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Change Order No. 2 to Original Contract Between Lewis and Clark County and Bullock Contracting, LLC. (Eric Griffin)

Eric Griffin, Director of Public Works, presented change order number 2 to the original contract with Bullock Contracting, LLC for the York Nelson Road Resurfacing Project. The change order will increase the contract by \$27,747.25 to adjust the estimated quantities to actual quantities of materials used on the project. The project is complete. Staff recommends approval of change order number 2.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

Funds Transfer Agreement Between Lewis and Clark County and Western Federal Lands Highway Division. (Eric Griffin)

Eric Griffin, Director of Public Works, presented the funds transfer agreement with Western Federal Lands Highway Division. The transfer agreement is for \$58,562 and is for project work to re-establish ditches and flow lines primarily in the upper road limits, shape and crown the road, apply a 6-inch crushed top surfacing and dust palliative to extend road surface longevity on 3.4 miles of road from Blackfoot River Bridge on Stemple Pass Road to the school bus turnaround. This is the County's 13.42% match portion of the project. Mr. Griffin explained the Forest Highway Access Program. The program requires a commitment of 13.42% hard match from participating agencies. The project is complete. Staff recommends approval of the funds transfer agreement.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Contract Between Lewis and Clark County Fairgrounds and Eagle Electric. (Keith Hatch)

Keith Hatch, Fairgrounds Manager, presented the contract with Eagle Electric for on call electrical services for building and maintenance repair through June 30, 2017. There is an established fee schedule that will be used for invoicing purposes. If any routine on-call services are estimated to cost \$5,000 or more, an amendment to the contract must be executed and approved by the County Commissioners first. Staff recommended approval of the contract.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

Contract between Lewis and Clark County Fairgrounds and Dawes Engineering. (Keith Hatch)

Keith Hatch, Fairgrounds Manager, presented the contract with Dawes Engineering for on-call or scheduled HVAC and mechanical system maintenance, repairs, or retro-commissioning activities at the Fairgrounds. The contract is effective through June 30, 2017 and has an established fee schedule for invoicing. Staff recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Montana Renewable Resource Watershed Management Grant (Jennifer McBroom)

Jennifer McBroom, Water Quality Protection District Coordinator, presented the grant agreement with the Montana Department of Natural Resources and Conservation for the Montana Renewable Watershed Management Grant. The grant is in the amount of \$5,000 and will fund a Big Sky Watershed Corps member from January 1, 2017 through December 2018. The Corps member will share duties with the Water Quality Protection District and the Lake Helena Watershed Group. Staff recommends approval of the grant agreement.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Good Geise. The motion Passed on a 3-0 vote.

Grant Award to Lewis and Clark County from Montana Department of Military Affairs Disaster and Emergency Services Division. (Paul Spengler)

Paul Spengler, Disaster and Emergency Services Coordinator, presented the grant award from the Montana Department of Military Affairs Disaster and Emergency Services Division for the 2016 Homeland Security Grant. The grant will fund the Security Awareness Training project with Montana Association of Counties and is in the amount of \$19,000. There is no match required for this grant. Staff recommends approval of the grant award.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Request for Preliminary Approval for the Proposed First Minor Subdivision to be known as The Amended Plat of Lot 141 and Lot 142, Block 14 of Lincoln Villa Sites, also known as Ward First Minor Subdivision, and Variance Requests (Applicant: David Ward) (Planner: Matt Heibel) (Tabled from 11/4/16)

Matt Heibel, Special Districts Coordinator, presented the request for preliminary approval and variance requests of the proposed first minor subdivision to be known as the Amended Plat of Lot 141 and Lot 142, block 14 of Lincoln Villa Sites, also known as Ward First Minor Subdivision. The applicant is proposing to divide 2.13 acres into four lots, each for one single family dwelling. The lots will range in size from 21,780 square feet to 24,705 square feet. All lots are proposed to be served by individual wells, utilities and service connections to the Lincoln Sewer District. Direct access to the lots will be off of the existing Eighth Avenue. The applicant has requested two variances; one for off-site fire protection requirements and one from payment for other costs directly attributable to the subdivision.

Mr. Heibel discussed a staff memo regarding 6 questions that arose from the public comment period. Mr. Heibel stated that the removal of existing trailer homes cannot be a condition of approval for the subdivision; the County only enforces county covenants on a complaint driven basis and has no role in enforcing private covenants; bear proof trash containers cannot be required for the subdivision; exterior lighting is addressed in the draft covenants stating that all exterior lights must be installed in a downward direction; dog control cannot be required; and, the lot density is addressed in the subdivision review. If approved, the lots are for single family dwellings only.

The first variance request is for an exemption from the requirement of payment of other costs directly attributable to the subdivision. The approval of this variance request would not require the

applicant to pay a proportional share of the cost of improving Eighth Avenue, the existing road that will provide direct access to the subdivision. The roads have been constructed to a unique standard that is functional for the town of Lincoln.

Commissioner Geise discussed the findings of fact for the first variance. According to the application, Eighth Avenue and the surrounding roads are included in the Lincoln Rural Improvement District (RID) and if approved, the landowners will be assessed under that RID for maintenance and improvements to Eighth Avenue.

A motion was made by Commissioner Hunthausen that after reviewing the findings of fact and after considering public comment, the finding of facts for the first variance request be approved as submitted. The motion was seconded by Commissioner Geise. The motion passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to adopt a conclusion of law that the first variance request has met all 4 standards. The motion was seconded by Commissioner Geise. The motion passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen that after reviewing the findings of fact and conclusions of law, the first variance request be approved. The motion was seconded by Commissioner Geise. The motion passed on 3-0 vote.

Commissioner Geise discussed the findings of fact for the second variance request, an exemption from the fire protection standards that minimize the risk of fire and permit the effective and efficient suppression of fire. Strict enforcement of this regulation would require the applicant to create or upgrade infrastructure that is not needed. The applicant is proposing to utilize an off-site fire protection system located in Hooper Park, .4 road miles away from the subject property. According to the application, due to the nature of the fill site, there is no significant maintenance anticipated. The subdivision would willingly become part of rural improvement district for maintenance of the current water supply. The Lincoln Fire Chief has spoken in support of the project.

A motion was made by Commissioner Geise that after reviewing the findings of fact and public comment, the findings of fact on the variance request be approved. The motion was seconded by Commissioner Hunthausen. The motion passed on a 3-0 vote

A motion was made by Commissioner Geise to adopt a conclusion of law that the second variance request has met all 4 standards. The motion was seconded by Commissioner Hunthausen.

A motion was made by Commissioner Geise that after reviewing the findings of fact and the conclusions of law, the requested variance be approved. The motion was seconded by Commissioner Hunthausen. The motion passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to conditionally approve the subdivision request with conditions of approval needed to mitigate adverse impacts or bring the project into compliance with regulations. The motion was seconded by Commissioner Geise. The motion passed 3-0.

A motion was made by Commissioner Hunthausen to approve the draft findings of fact as submitted. The motion was seconded by Commissioner Murray. Commissioner Hunthausen discussed the findings of fact. The motion passed on a 3-0 vote.

A motion was made by Commissioner Hunthausen to adopt a conclusion of law that the proposed Subdivision will have adverse impacts on the review criteria and will not be in compliance with regulations. Commissioner Hunthausen further moved to adopt a conclusion of law that adoption of the attached conditions of approval will mitigate the impacts and bring the project into compliance with

the regulations. The motion was seconded by Commissioner Geise. The motion passed a on a 3-0 vote.

A motion was made by Commissioner Hunthausen that after reviewing the draft findings of fact on the impact criteria and subdivision regulation requirements and after considering public comment, the conditions of approval be approved. The motion was seconded by Commissioner Geise. The motion passed on a 3-0 vote.

Open Lands Program Shoco Ranch Conservation Easement Project (tabled 10/13/16)
(Sponsor: Montana Land Reliance) (Planner: Matt Heime)

Matt Heime, Special Districts Coordinator, presented the application for funding for the Shoco Ranch Conservation Easement Project. The project was originally presented at the October 13, 2016 public meeting. However, the Commission returned the project back to the Open Lands CAC at that time to allow the applicant more time to seek additional funding sources and to have the CAC make a funding recommendation for the project. On November 3, 2016 the Open Lands CAC voted 9-0 to recommend funding of the project in the amount of \$769,200.

Deputy County Attorney K. Paul Stahl discussed his legal opinion regarding using bond funds to pay for transactional costs. It is Mr. Stahl's opinion that bond funds cannot be used for those costs.

PUBLIC COMMENT -

Christian Dietrich, Montana Land Reliance and project sponsor, spoke in favor of the Shoco Ranch project. This project is what conservation is all about. The project is supported by a wide range of stakeholders and they have been able to get more partners on board such as the Audobon Society, Vital Ground Foundation, and Rocky Mountain Elk Foundation. The project conserves working farms and ranches and protects fish and wildlife habitat. The landowner is the fourth generation on this land and the land is critical habitat for many species including grizzly bears. The project will also protect water resources and water quality along Smith Creek and in Elk Creek. It will also manage growth and development. Mr. Dietrich thanked the Commission for consideration of the project.

Commissioner Hunthausen asked Mr. Dietrich if he knew of any challenges from other county programs paying transactional costs. Mr. Dietrich responded that he was not aware of any.

Sally Shortridge, Shoco Ranch owner and applicant, presented a letter of support from the Augusta Area Chamber of Commerce. Ms. Shortridge stated that a question had come up regarding the construction of 3 homes on the property. The homes had been considered but had not been constructed and that there was no intention of constructing them in the future. Commissioner Murray asked Ms. Shortridge what her vision was for this property. She stated that she wants to save the land and protect it from growth. She enjoys seeing the wildlife on the land and she wants that available for future generations.

Glenn Marx, Executive Director of Montana Association of Land Trusts (MALT), stated that MALT fully supports this conservation easement project. Mr. Marx stated that at the heart of every easement two things are happening: financial decisions and stewardship decisions. Mr. Marx added that because of these things no two easement projects are the same and he urged the Commission to consider each project on its own merits. The Rocky Mountain Front is a priority area for protection via conservation easements.

Connie Cole, 6040 Fairy Drive, Helena, stated that the sponsor and the applicant had found additional funding sources as requested by the Commission and they should be commended for

that. Ms. Cole was concerned about the lack of leverage for the project and the number of potential building envelopes being allowed in the easement.

Laura Nicolai, 4232 Nicolai Lane, Lincoln, stated that she has worked with the landowner on the application. Ms. Nicolai stated that Montana Fish, Wildlife and Parks supports the project due to its protection of wildlife habitat. Ms. Nicolai added that the costs associated with doing a conservation project are substantially high and are usually paid upfront by the applicant.

Upon no further testimony or comment, Commissioner Murray stated that the public comment is now closed.

Commissioner Murray stated that while he supports the project, he is unsure on the amount of funding that should be provided for the project. Commissioner Hunthausen agreed. Commissioner Geise stated that before the public comment period be opened, the public should know how much funding the Commission is considering. Eric Bryson suggested the Commission consider a certain percentage of the appraised value they are comfortable paying rather than an actual dollar amount. Mr. Stahl added that the Commission has the discretion to change the amount of funding between now and when the application is approved for funding.

A motion was made by Commissioner Hunthausen to open a 30 day comment period for the Shoco Ranch project and that funding be considered up to the proposed request of \$769,200. The motion was seconded by Commissioner Geise. The motion was approved 2-1 with Commissioner Geise opposed.

Resolution 2016-98 Approving Funding of the Open Lands Program Lincoln Community River Park Acquisition Project (Tabled 10/25/16) (Sponsor: Five Valleys Land Trust) (Planner: Matt Heimel)

Matt Heimel, Special Districts Coordinator, presented Resolution 2016-98 approving funding of the Open Lands Program Lincoln Community River Park Acquisition Project. This project was tabled on October 25, 2016. The resolution is to approve funding in the amount of \$85,000 for the acquisition of 9.445 acres located along the Blackfoot River. The Open Lands CAC voted 9-0 on August 2, 2016 to recommend the project for funding in the amount of \$85,000. Also included in the CAC's recommendation was to approve transactional costs up to an amount of \$28,300. Since that time, the project sponsor has been able to find additional partners to help cover the transactional costs.

PUBLIC COMMENT -

Vickie Edwards, Five Valleys Land Trust, offered support for the project. FVLT will be the long term manager of the property and the project will be managed as a public park providing safe access to the Blackfoot River. Ms. Edwards added that they have received the transactional invoices which came in lower than expected. This means that the current funding request is lower than the original request. FVLT has a purchase agreement in place with the property owner that expires on December 23, 2016. Ms. Edwards requested the Commission amend their motion into two separate motions: the first motion being for approval of the \$85,000 for the acquisition and the second motion tabling the decision on whether or not transactional costs can be reimbursed. This would allow FVLT to close on the property before the purchase agreement expires and would also allow them time to respond to the County Attorney's memo regarding use of bond funds.

Commissioner Geise asked Ms. Edwards what FVLT's vision was for this project. Ms. Edwards responded that they have a draft management plan for the property that will protect the conservation values. They foresee the property being a walk-in community park that is available for the public benefit. They already have school groups using the property for classes. They anticipate that the local working group that has been working on the project will become an informal manager of the property.

Glenn Marx, Executive Director of Montana Association of Land Trusts, offered support for the project. Mr. Marx added that this project exemplifies what grass roots efforts and partnerships can accomplish.

Christian Dietrich, Helena, offered support for the project.

A motion was made by Commissioner Hunthausen to approve Resolution 2016-98 approving funding of the Open Lands Program Lincoln Community River Park Acquisition Project in the amount of \$85,000. The motion was seconded by Commissioner Geise. The motion passed on a 3-0 vote.

The proposal to fund transactional costs will be heard at the November 29, 2016 regularly scheduled public meeting.

Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

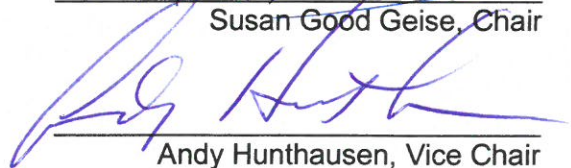
Adjourn

There being no further business, the meeting adjourned at 11:56 am.

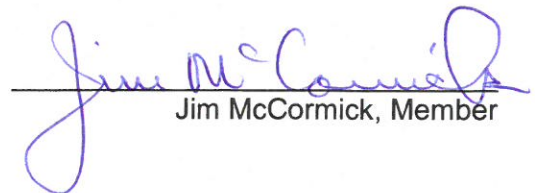
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



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Andy Hunthausen, Vice Chair



Jim McCormick, Member

ATTEST:


Paulette DeHart, Clerk of the Board